

The Police Commission

September 15, 2022

CINDY ELIAS

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MAX CARTER-OBERSTONE Vice President

LARRY YEE

Commissioner

JAMES BYRNE Commissioner

JESUS YANEZ Commissioner

KEVIN BENEDICTO

Commissioner

DEBRA WALKER

At the meeting of the Police Commission on Wednesday, September 14, 2022, the Commissioner following resolution was adopted:

Sergeant Stacy Youngblood

RESOLUTION 22-129

Chief William Scott

Chief of Police

Dear Chief Scott:

APPROVAL OF DRAFT DEPARTMENT GENERAL ORDER 5.01, "USE OF FORCE POLICY AND PROPER CONTROL OF A PERSON," FOR THE DEPARTMENT TO USE IN MEETING AND CONFERRING WITH SAN FRANCISCO POLICE OFFICERS ASSOCIATION

RESOLVED, that the Police Commission hereby approves draft Department General Order 5.01, "Use OF Force Policy and Proper Control of a Person," for the Department to use in meeting and conferring with the San Francisco Police Officers Association.

AYES: Commissioners Elias, Carter-Oberstone, Yee, Byrne, Yanez, Benedicto, Walker

Very truly yours

Sergeant Stacy Youngblood

Secretary

San Francisco Police Commission

1211/rct

Deputy City Attorney Cabrera cc:

Director L. Preston/SFPD Labor Relations

A/Captain E. Altofer/PSPP





Rev. 01/12/22 Eff: 04/12/22

USE OF FORCE POLICY AND PROPER CONTROL OF A PERSON

The San Francisco Police Department's highest priority is safeguarding the life, dignity and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department General Order builds upon the Supreme Court's broad principles in *Graham* v. *Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

5.01.01 PURPOSE

This order establishes policies and reporting procedures regarding the use of force. The purpose of the policy is to guide an officer's decisions regarding the use and application of force to ensure such applications are used only to effect arrest or lawful detentions or to bring a situation under legitimate control and assist the Department in achieving its highest priority. No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options. It is the policy of the Department to review rigorously every instance in which a firearm is discharged, including exceptional circumstances, on a case-by-case basis to evaluate all facts to determine if the discharge is within policy pursuant to Department General Order (DGO) 3.10 Firearm Discharge Review Board.

5.01.02 **POLICY**

- A. SAFEGUARDING HUMAN LIFE AND DIGNITY The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.
- B. ESTABLISH COMMUNICATION Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.
- C. DE-ESCALATION Officers shall, when feasible, employ de-escalation strategies and techniques to mitigate the need to use a higher level of force and to increase the likelihood of a peaceful resolution. Officers shall, when feasible, attempt to build rapport and consider the possible reasons why a subject may be noncompliant. This

- B. MINIMAL AMOUNT OF FORCE NECESSARY The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.
- C. PERSONAL BODY WEAPONS An officer's use of their body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg, or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.
- D. REASONABLE FORCE Force that would be objectively reasonable "from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." Cal. Penal Code § 835a(a)(4).
- E. REPORTABLE FORCE All uses of force are reportable except for Type I force. Types II, III, and IV force are reportable. The types of force are defined in subsection 5.01.07, *Types of Force*.
- F. SERIOUS BODILY INJURY A serious impairment of physical condition, including but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.
- G. VITAL AREAS OF THE BODY The head, neck, face, throat, spine, groin and kidney.
- H. DEADLY FORCE Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm. Cal. Penal Code § 835a(e)(1).
- I. IMMINENT THREAT OF DEATH OR SERIOUS BODILY INJURY A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Cal. Penal Code § 835a(e)(2).
- J. INTERCEDE Includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, the efforts to deescalate the offending officer's excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer's name, unit, location, time, and situation, in order to establish a duty for that officer to intervene. (See Section 7286 of the Government Code.)

- e. The time available to the officer to make decisions during circumstances that are tense, uncertain, and rapidly-evolving;
- f. The availability of other feasible, less intrusive force options;
- g. The officer's tactical conduct and decisions preceding the use of force;
- h. Whether the officer has reason to believe that the subject is mentally ill, has a physical, developmental or cognitive disability, is emotionally disturbed or is under the influence of alcohol or drugs;
- i. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
- j. Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;
- k. Specialized knowledge, skills, or abilities of subjects;
- 1. Prior contact;
- m. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
- n. Whether the subject's escape could pose a future safety risk.

Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

- C. DE-ESCALATION Barring exigent circumstances, the primary objective of the first responding officer(s) should be to observe the incident from a distance, assess the nature of the call, and gather the appropriate personnel or resources. When encountering a non-compliant or armed subject, officers shall, when feasible, use deescalation strategies and techniques in an effort to reduce the need or level of force, including:
 - 1. Make reasonable attempts to isolate and contain the subject;
 - 2. Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an imminent threat that may require the use of force;
 - 3. Request additional resources, such as Crisis Intervention Team (CIT) certified officers, Hostage/Crisis Negotiation Team, or an Extended Range Impact Weapon;
 - 4. In order to minimize overwhelming or conflicting communication, one officer should be responsible at any given time for reasonable attempts to establish rapport and engage in strategic communication with the subject;
 - 5. Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety; and
 - 6. Continue de-escalation strategies and techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

E. LIFE-THREATENING - Any action likely to result in serious bodily injury or death of the officer or another person.

The following chart illustrates how a subject's level of resistance (as a lone consideration) may factor into the selection of reasonable force options.

| Subject's Actions | Description | Possible Force Option |
|------------------------|--|---|
| Compliance | Subject offers no resistance | Mere professional appearance Nonverbal actions Verbal requests and commands Handcuffing and control holds |
| Passive non-compliance | Does not respond to verbal commands but also offers no physical form of resistance | Officer's strength to take physical control, including lifting/carrying Pain compliance control holds, takedowns and techniques to direct movement or immobilize |
| Active resistance | Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, verbally, or physically signaling an intention to avoid or prevent being taken into or retained in custody | Use of personal body weapons to gain advantage over the subject Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject |
| Assaultive | Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person | Use of devices and/or techniques to ultimately gain control of the situation Use of personal body weapons to gain advantage over the subject |
| Life-threatening | Any action likely to result in serious bodily injury or death of the officer or another person | Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat Vehicle intervention (Deflection) |

TYPE II:

Force that (1) is reasonably likely to cause pain, discomfort, or injury; or (2) causes transitory physical pain, discomfort, or injury; or (3) the subject reports physical pain, discomfort, or injury.

OR

Pointing a firearm at a person.

Arrest or Control pain compliance techniques.

Type I physical interaction that results pain or injury (observed or reported).

Whenever an officer, with the muzzle of their drawn firearm, covers any portion of a person.

Tire deflation device (e.g., Spike Strips) contact, deflating or otherwise damaging vehicle tires, without injury.

An officer uses a takedown technique to gain control of an actively resisting subject.

An officer points a firearm at a suspect, covering their lower body, in response to an imminent deadly threat.

TYPE III:

Force that creates a significant risk of physical injury, other than Type IV force.

Any force resulting in serious bodily injury or death is classified as Type IV.

Arrest or Control techniques that result in or are likely to cause injury greater than transitory pain.

Use of intermediate force options upon a person, including but not limited to personal body weapons, chemical agents, and impact weapons.

Use of an Extended Range Impact Weapon or other impact projectile upon a person.

Placement of tire deflation device (e.g., Spike Strips) with confirmed contact, and deflation of tires resulting in less than a Type IV injury.

Canine bite.

Use of noise-flash diversionary device, with subject(s) present.

An officer uses force that is likely to cause or causes bruising, lacerations, and/or other injuries.

An officer uses a baton strike to gain control of a suspect. The use of force causes swelling and bruising to the suspect's thigh.

An officer uses OC spray to gain control of a suspect. The subject has no visible injury but complains of discomfort.

- 1. PURPOSE When a subject offers some degree of passive or active resistance to a lawful order, in addition to de-escalation techniques and appropriate communication skills, officers may use physical controls consistent with Department training to gain compliance. A subject's level of resistance and the threat posed by the subject are important factors in determining what type of physical controls or personal body weapons should be used.
- 2. USE Officers shall consider the relative size and possible physical capabilities of the subject compared to the size, physical capabilities, skills, and experience of the officer. When faced with a situation that may necessitate the use of physical controls, officers shall consider requesting additional resources to the scene prior to making contact with the subject, if feasible. Different physical controls involve different levels of force and risk of injury to a subject or to an officer. Some physical controls may actually involve a greater risk of injury or pain to a subject than other force options.
- 3. PROHIBITED USE OF CAROTID RESTRAINT, CHOKE HOLDS, OR POSTIONAL ASPHYXIA Officers are prohibited by Government Code 7286.5 from using the following control holds:
 - a. Carotid restraint A vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.
 - b. Choke hold Any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe.
 - c. Positional asphyxia Situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.
- 4. PROHIBITED USE OF PHYSICAL CONTROL TO HEAD, NECK AND THROAT - Officers may not apply pressure while using any use of force tool, physical control or personal weapons, and other weaponless techniques such as knee, other body part to the head, neck or throat of a person while effecting an arrest of a person, overcoming resistance, or preventing escape unless an exigent circumstance arises.

Exigent Circumstance Exception - An exigent circumstance arises when an officer reasonably believes, based on specific and articulable facts, that a threat exists to a person's safety, the safety of others, or the safety of the involved officer(s). When an officer applies force, pressure or control to the head, neck or

- 2. WARNING Officers shall provide a warning prior to deploying a chemical agent, if feasible:
 - a. Announce a warning to the subject and other officers of the intent to deploy the chemical agent if the subject does not comply with officer commands; and
 - b. Give the subject a reasonable opportunity to voluntarily comply, unless it would pose a risk to the public or the officer or permit the subject to undermine the deployment of the chemical agent.
- 3. MANDATORY FIRST AID At the scene or as soon as possible, officers shall administer first aid by:
 - a. Seating the subject or other person(s) exposed to a chemical agent in an upright position, and
 - b. Flushing their eyes out with clean water and ventilate with fresh air.
- 4. MANDATORY MEDICAL ASSESSMENT Any person exposed to a chemical agent shall be medically assessed by emergency medical personnel. Any exposed person shall be kept under direct visual observation until medically assessed. If an exposed person loses consciousness or has difficulty breathing, an officer shall immediately request for emergency medical personnel, render first aid and monitor the subject until relieved by emergency medical personnel. Officers shall notify dispatch to expedite emergency medical personnel if the person loses consciousness or has difficulty breathing.
- 5. TRANSPORTATION Subjects in custody exposed to a chemical agent must be transported in an upright position by two officers. The passenger officer shall closely monitor the subject for any signs of distress. If the subject loses consciousness or has difficulty breathing, officers shall immediately seek emergency medical attention. Hobble cords or similar types of restraints shall only be used to secure a subject's legs together. They shall not be used to connect the subject's legs to their waist or hands or to a fixed object.
- 6. BOOKING FORM Officers shall note on the booking form that the subject has been exposed to a chemical agent.
- D. IMPACT WEAPON Department issued and authorized impact weapons include the 26" straight wooden baton, the 36" straight wooden baton, the wooden or polymer Yawara stick, the 21" to 29" telescopic metal baton and the wooden bokken and are designed to temporarily incapacitate a subject.
 - 1. PURPOSE An impact weapon may be used in accordance with Department training to administer strikes to non-vital areas of the body, which can subdue an assaultive subject who is actively resisting and poses a threat to the safety of officers or others. Only Department issued or authorized impact weapons shall be used. Officers may resort to the use of other objects as impact weapons, such as a flashlight or police radio, if exigent circumstances exist, and officers shall articulate the reason for doing so in the corresponding incident report.

iii. Shots to Zone 2 have been ineffective or in the officer's judgment a shot to zone 2 would be ineffective.

Officer shall articulate in writing the reason for intentionally aiming the ERIW at Zone 1.

- c. The use of an ERIW to a vital area has a likelihood of causing serious bodily injury or death, and the intentional use of an ERIW to these areas shall only be used in situations where deadly force is justified.
- d. The ERIW officer shall assess the effect of the ERIW after each shot. If subsequent ERIW rounds are needed, the officer shall aim at a different target area.
- 3. LIMITED USES The ERIW should not be used in the following circumstances (unless the use of deadly force is appropriate):
 - a. The subject is at the extremes of age (elderly and children) or physically frail.
 - b. The subject is in an elevated position where a fall is likely to cause serious injury or death.
 - c. The subject is known or appears to be pregnant.
 - d. At ranges of less than 15 feet.
- 4. WARNING When using the ERIW, an officer shall, if feasible:
 - a. Announce to other officers the intent to use the ERIW by stating, "Red Light! Less Lethal! Less Lethal!"
 - b. All other officers at scene to acknowledge imminent deployment of ERIW by echoing, "Red Light! Less Lethal! Less Lethal!"
 - c. Announce a warning to the subject that the ERIW will be used if the subject does not comply with officer commands;
 - d. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the community or the officer or permit the subject to undermine the deployment of the ERIW.
- 5. MANDATORY MEDICAL ASSESSMENT Any subject who has been struck by an ERIW round shall be medically assessed by emergency medical personnel.
- 6. BOOKING FORM Persons who have been struck by an ERIW round shall have that noted on the booking form.
- F. VEHICLE INTERVENTIONS An officer's use of a police vehicle as a "deflection" technique, creation of a roadblock by any means, or deployment of spike strips, or any other interventions resulting in the intentional contact with a noncompliant subject's vehicle for the purpose of making a detention or arrest, are considered a use of force and must be objectively reasonable under the circumstances. The Department's policies concerning such vehicle intervention tactics are set forth in DGO 5.05, *Emergency Response and Pursuit Driving*.

- complete a corresponding Use of Force Supervisory evaluation before the end of watch
- e. NOTIFICATION & EVALUATION Whenever an officer draws, exhibits, or points a firearm, the officer shall notify their supervisor immediately or as soon as practical. The supervisor shall conduct a Use of Force Supervisory Evaluation in circumstances where the officer pointed the firearm at a person; otherwise, the supervisor shall conduct a Drawing and Exhibiting Supervisory Evaluation.

2. DISCHARGE OF FIREARMS OR OTHER USE OF DEADLY FORCE

- a. PERMISSIBLE CIRCUMSTANCES Except as limited by Sections 5.01.07 G.2. d. and e., an officer may discharge a firearm or use other deadly-force in any of the following circumstances. The circumstances below (2.a.i-iv) apply to a discharge of a firearm or application of deadly force:
 - i. In self-defense when the officer has reasonable cause to believe that they are in imminent danger of death or serious bodily injury; or
 - ii. In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to themself, and there is no reasonable cause to believe that the person poses an imminent danger of death or serious bodily injury to the officer or any other person; or
 - iii. To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed; or
 - iv. To kill an animal posing an imminent threat.
 - Officers shall reassess the situation, when feasible and safe, to determine whether the subject continues to pose an imminent threat.
- b. VERBAL WARNING If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force.
- c. REASONABLE CARE FOR THE PUBLIC To the extent feasible, an officer shall take reasonable care when discharging their firearm so as not to jeopardize the safety of the public or officers.

- b. The officer shall document and articulate the justification for the Drawing and Exhibiting of the firearm in the corresponding incident report.
 If the incident has no nexus with criminal activity and no incident report is otherwise required, in lieu of an incident report, the officer may memorialize the justification by narrating it on their corresponding bodyworn camera video recording or by making an entry into the corresponding CAD record.
- c. Supervisors shall review the relevant body worn camera footage and any other available evidence, in order to complete the Supervisory evaluation of the Drawing and Exhibiting;
- d. Supervisors shall complete the corresponding Drawing and Exhibiting Supervisory Evaluation form by the end of watch.
- e. The Commanding Officer or their designee shall review, evaluate, and approve all completed Drawing and Exhibiting Supervisory Evaluations occurring within their command.

5.01.08 USE OF FORCE REPORTING

- A. REPORTABLE USES OF FORCE All uses of force, other than Type I, are reportable.
 - 1. NOTIFICATION OF USE OF FORCE An officer shall notify their supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.
 - 2. EVALUATION OF USE OF FORCE A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force. When the officer using force is a supervisor, another supervisor or superior officer shall conduct the use of force evaluation.
 - 3. EXCESSIVE USE OF FORCE Every allegation of excessive force shall be subject to the reporting and investigative requirements of this General Order and applicable disciplinary policies.

B. PROCEDURES

- 1. OFFICER'S RESPONSIBILITY Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Descriptions shall be in clear, precise and plain language and shall be as specific as possible.
 - a. When the officer using force is preparing the incident report, the officer shall include the following information:
 - i. The subject's action necessitating the use of force, including the threat presented by the subject;
 - ii. Efforts to de-escalate prior to the use of force; and if not, why not;
 - iii. Any warning given and if not, why not;

oversight should be addressed through the chain of command. In any circumstance, however, the evaluation shall be completed before the end of watch.

- 3. SUPERIOR OFFICER'S RESPONSIBILITY When a superior officer is notified of a supervisor's preliminary determination of unnecessary force or force that results in serious bodily injury or death, the superior officer shall:
 - a. Respond to the scene and assume command, as practical;
 - b. Notify the commanding officer and ensure all other notifications are made consistent with DGO 1.06, *Duties of Superior Officers*, and, in cases of unnecessary force, notification and submission of any documentation to the Department of Police Accountability, consistent with DGO 2.04, *Complaints Against Officers*;
 - c. Determine which unit(s) will be responsible for the on-going investigation(s);
 - d. Prepare a report containing preliminary findings, conclusions and/or recommendations, if appropriate.

C. OTHER REQUIREMENTS

- 1. USE OF FORCE LOG The following units shall maintain a Use of Force Log:
 - District Stations
 - Airport Bureau
 - Department Operations Center

On the Monday of each week, unless a holiday, and then on the Tuesday, Commanding Officers shall sign the Use of Force log and send it to their respective Bureau Deputy Chief and a copy sent to the Risk Management Office.

- 2. RECORDING PROCEDURES Supervisors shall document a reportable use of force for all officers including those officers assigned to specialized units in the Use of Force Log at the District Station where the use of force occurred, except as noted below:
 - a. Any use of force occurring outside the city limits, except at the San Francisco International Airport, shall be recorded in the Department Operations Center's Use of Force Log.
 - b. Any use of force occurring at the San Francisco International Airport shall be recorded in the Airport Bureau's Use of Force Log.
- 3. DOCUMENT AND DATA ACCESS The Technology Division shall ensure that the respective Deputy Chiefs, the Commanding Officer of the Training Division, the Commanding Officer of the Risk Management Office, and their designees have access to Use of Force reports and evaluations, Drawing and Exhibiting evaluations, and their related data.

5.01.09 OFFICER'S RESPONSIBILITY AND COMPLIANCE

All officers are responsible for knowing and complying with this policy. As with all General Orders, any violation of this policy may subject the member to disciplinary action. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it. Any member who becomes aware of any violation to this policy shall promptly report it in accordance with established procedure.

References:

DGO 1.06, Duties of Superior Officers

DGO 2.04, Complaints Against Officers

DGO 5.03, Investigative Detentions

DGO 5.05, Emergency Response and Pursuit Driving

DGO 5.17, Bias-Free Policing Policy

DGO 5.18, Prisoner Handling and Transportation

DGO 5.21, The Crisis Intervention Team (CIT) Response to Persons in Crisis Calls for Service

DGO 8.11, Investigation of Officer Involved Shootings and Discharges

DGO 8.12, In Custody Deaths

POST LD 20, Use of Force/De-Escalation Workbook (Version 5.4)

POST De-Escalation Manual: Strategies and Techniques for California Law Enforcement (2020)